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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,437	08/17/2000	James Crouthamel	MBHB00-488	5131

34018 7590 09/23/2004

GREENBERG TRAURIG, LLP  
77 WEST WACKER DRIVE  
SUITE 2500  
CHICAGO, IL 60601-1732

EXAMINER
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ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER
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ART UNIT	PAPER
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20040914

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

see attached

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 May 2004 has been entered.

### **Non-responsive, Bona-fide attempt**

By his amendment of 17 May 2004, applicant added new claims 53-69.

Applicant also cancelled pending claims 35-52 and amended the application to confirm that he had intended to cancel claims 1-34.

Newly submitted claim 53-69 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the new claims are directed to *tracking* activity of a customer and *payment of commissions*.

As a result the claims originally filed would have been restricted accordingly.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 59-69 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Art Unit: 3625

Applicant has received actions on the merits for originally presented invention. The invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 35-52 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Conclusion***

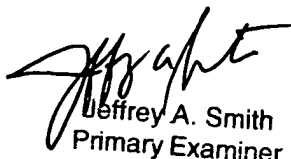
The above-mentioned amendment, while *non-responsive*, appears to be a *bona fide* attempt to reply. The applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynne Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-1113.

*JZ*  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
24 November 2003

  
Jeffrey A. Smith  
Primary Examiner